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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/304,379 | 05/04/1999 | MICHAEL JOSEPH GARDNER | 1152 | 9580 |

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EXAMINER

TRAN, PHUC H

ART UNIT PAPER NUMBER

2666

DATE MAILED: 04/02/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/304,379

Applicant(s)

GARDNER ET AL.

Examiner

PHUC H TRAN

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 81-100 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 81-100 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 81-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalmanek, Jr. et al. (U.S. Patent No. 6324279 B1).

- With respect to claims 81, 90-91 & 100, Kalmanek, Jr. teaches a communication system (e.g. Fig. 1) comprising: a signaling processor configured (e.g. Fig. 1 shows controllers 110, databases 140) to receive and process signaling for a call (e.g. the Gate controller receives a setup message for a call, step 210 in Fig. 2) to select a connection, a bandwidth rate, an encoding scheme, and a billing rate (it is inherently to know when the control setting up a communication with quality of service, it has to select the connection, the bandwidth rate and the encoding scheme with minimizing the cost; col. 3, lines 60-64, col. 4, lines 9-11, col. 10, lines 6-7), to transfer a first message indicating the connection, the bandwidth rate, and the encoding scheme (e.g. col. 6, lines 41-55 and col. 9, lines 6-21; the gate controller receives the request from TIU and authorize the service, therefore the controller controls the connection, the bandwidth rate and the encoding scheme before it can communicate with other TIU), and transfer a second message indicating the billing rate to an accounting system (e.g. the billing rate is detected at NED and at

Art Unit: 2666

the gate control, col. 5, lines 22-26, it is inherently to understand there is an accounting system for calculating bill for caller);

and an interworking unit configured to receive the first message and user communications for the call, and in response, to apply the encoding scheme to the user communications and transfer the user communications over the connection at the bandwidth rate (e.g. step 260 in Fig. 2).

Kalmanek fails to teach the billing rate transferring directly from the gate controller to the accounting system. But Kalmanek teaches the billing rate transferring from the gate controller through the network edge device to the accounting system (col. 33, line 55 to col. 34, line 9 and col. 5, lines 9-28). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to understand the billing rate that transfers from the gate controller through the NED is the same as transmitting directly to the accounting system for determining the cost of communication between the caller and the called.

- With respect to claims 82 & 92, Kalmanek, Jr. also discloses wherein the signaling comprises a signaling system seven message (col. 7, line 61).

- With respect to claims 83-84 & 93-94, Kalmanek, Jr. further teaches wherein the signaling processor is configured to select the bandwidth rate based on whether the call is a voice call or a data call or a caller number (col. 9, lines 11-21).

- With respect to claims 85 & 95, Kalmanek, Jr. discloses wherein the signaling processor is configured to select the encoding scheme based on a caller number (e.g. col. 23, lines 28-32).

- With respect to claims 86-87 & 96-97, Kalmanek, Jr. teaches wherein the encoding scheme comprises compression and encryption (e.g. TIUs 170 and 171 coding the information is compressing and encryption).

- With respect to claims 88 & 98, Kalmanek, Jr. also teaches wherein the signaling processor is configured to select the billing rate based on the bandwidth rate or the encoding scheme (col. 3, lines 61-64).

Response to Arguments

4. Applicant's arguments with respect to claims 81-100 have been considered but are moot in view of the new ground(s) of rejection.

Response to the amendment filed 1/21/2003; Applicant argued that Kalmanek does not teach the claimed message between the signaling processor and the interworking unit (page 3). Examiner respectfully disagrees with the Applicant. The gate control setups a communication to assure an authorized quality of service, the gate control has to select the connection, the encoding and the bandwidth to meet the service quality for various calls to NED in blocks 220, 230 in Fig. 2.

Applicant argued that the signaling processor process an SS~~7~~ message to make selections, which does not teach in claim 82

Applicant argued that Kalmanek does not teach how the bandwidth rate and the encoding scheme are selected. Kalmanek teaches the bandwidth rate are selected in col. 9, lines 11-21; and the encoding scheme in col. 23, lines 28-32.

Art Unit: 2666

Conclusion

5 Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9314.

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
March 30, 2004



DANG TCM
PRIMARY EXAMINER